

Charles Morris, Esq; and
Margaret Morris Administratrix of Robert Morris, Esq; deceas'd, } Appellts.

Mary Harrifon Administratrix
of Godfrey Harrifon deceas'd,
John Harrifon Son and Heir
of the said Godfrey Harrifon,
and others, } Respondts.

The Appellants C A S E.

Articles dated
3 April 1671.

Note,

BY Virtue of Articles dated the 3d of April, 1671, a Partnership for Twenty Years was entred into by Robert Morris (whom the Appellants represent;) Godfrey Harrifon (whose Representatives the Respondents Harrifons are) and two more, for the management of a Glass-House, into which each Party was to bring 800 l. and it was afterwards Agreed to advance 200 l. a-piece more.

That by the said Articles it was Agreed, That if any of the Partners died, the Partnership should continue amongst the Survivors, and that the Executors or Administrators of the deceased Partner should have the Benefit of the Joint-Stock and Proceed thereof as it stood at his death, and the Survivors within a Month after request to accompt with and pay such Executors and Administrators (unless he or they agreed to continue in Partnership) a Fourth part of the said Stock and Estate, according to a reasonable Value or Estimate thereof, after the Deceased's Death, deducting thereout a Fourth part of the Debts then due from the Partners, and to save harmless such Executors or Administrators from all Debts then owing by the Partners upon account of the Joint-Trade, if within a Month after such Accompt delivered to them, they should signifie such their Resolutions by Writing under their Hands and Seals, and should seal a new Indenture of Co-partnership to the Survivors; and if the Joint-Estate fell short to pay the Debts of the Partnership, then the Partners for the time being should pay them equally out of their own particular Estates.

Harrifon died
Septemb. 1675.
Morris died
Feb. 2d, 1675.

That in Septemb. 1675 the said Godfrey Harrifon died, and in Feb. 1675 the said Robert Morris died. That before either of their Deaths there proved great Losses in the Partnership, and 4000 l. was taken up upon Bonds from all the said Partners upon account thereof; towards which the Appellants paid 1775 l. Principal Money, besides Interest; and were also Decreed in a Suit against them by other of the Creditors to pay 850 l. more, besides Interest and Costs, which they have since paid.

That the Respondent Mary Harrifon, as she pretends, did within a Month after her Husband's death demand an Accompt of two of the Partners, but not of Morris, who was then ill, and never afterwards concerned himself in the Partnership to his death (or was privy to what they transacted:) And after Morris's death, and not before, there was an Accompt deliver'd in to her, which has been since falsified in several Particulars.

The Appellant
Margaret took
out Administration
in April,
1679.

That the said Robert Morris Deceased, made a Will, and three Executors who Renounced (and thereby Charged his Estate with the Payment of his Debts) and that in April following Administration with the Will annexed was granted to the Appellant Margaret, so that she could not require an Account within a Month after her Husband's Death, according to the Articles; and the said Appellant Margaret never came into the Partnership, or Acted, which she could not do, unless she had entred into New Articles with the rest of the Co-partners.

Harrifon's Bill
brought Easter-
Term, 1686.

Trinity Term
1689. Appellants Bill
brought.

5th December
1695, both
Causes heard.

15 Martij 1696

That the Respondents ought to bear their equal proportion with the Appellants of the Loss and Debts of the Partnership, the Person whom they represent being equally bound with the Persons whom the Appellants Represent; notwithstanding which, there was a Bill brought by the Respondent Harrifon against the Appellant and surviving Partners, to have his Land freed from being charged with the Debts in Partnership.

That the Appellants likewise exhibited a Bill against the Respondents, to make them pay their proportion of the Debts.

That both the Causes were heard before the Master of the Rolls in December 1695, who Decreed the Account so delivered as aforesaid, to be a Stated Account, but with liberty to falsifie or surcharge; and declared that the Appellant Margaret continued in the Co-partnership, and that the Respondents (the Harrifons) were not to be Sued on any Bonds entred into by the said Godfrey Harrifon in Relation to the Partnership.

These Causes were heard before the late Lord Chancellor, who Confirmed the said Decree made by the Master of the Rolls, with liberty for either side to falsifie or surcharge the said Account if they could.

Which said Orders made on Hearing and Re-hearing the said Causes as to the Matters aforesaid ought to be set aside, and the Respondents Decreed to come into the General Account, and to bear their proportion with the Appellants, of the Loss and Debts of the Partnership, and with respect to the insolvency of the other Partners for the Reasons following.

I. That if any such Account was delivered to the said Mary Harrifon, it was not delivered 'till after the said Morris's Death, neither was the same given in as a Stated Account, or Signed by any of the Partners, neither can it reasonably be thought Morris could be privy to it before his Death, he having been extremely ill from the time of Harrifon's Death, of which Sickness he died.

II. That the said Appellant never Acted in the Co-partnership any more than the Respondent Harrifon, and was not capable of demanding an Account of the Co-partners within a Month after the said Morris's Decease, by reason she could not take out Administration till a quarter of a year after her said Husband's Death, upon the Executors renouncing.

III. That it doth not appear that notice was given by the Respondent Mary Harrifon to the said Morris that she would not continue the said Partnership, neither doth it appear that the notice given by her to the other Partners was according to the Articles, or that she did ever demand an Account of the said Robert Morris, or that he knew or was privy to the same, or the delivery thereof.

IV. That it does not appear that the Appellant Margaret ever concerned her self in the said Partnership after her said Husband's death, nor in Fact did she intermeddle.

V. That the pretended Account so delivered is falsified by the Masters Report in several Considerable Particulars, and yet no provision made by the Court in respect thereof.

WILLIAM DOBYNS.